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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,561	11/07/2001	Guo-Bin Wang	11113/9	3657

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EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT PAPER NUMBER

1772

DATE MAILED: 12/29/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/035,561

Examiner

Christopher P Bruenjes

Applicant(s)

WANG ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 31-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**WITHDRAWN REJECTIONS**

1. The 35 U.S.C. 112 rejections of claims 33 and 34 of record in Paper #5, Page 3 Paragraph 3 have been withdrawn due to Applicant's amendments in Paper #7.
2. The 35 U.S.C. 102 rejections of claims 31-35 as anticipated by Anders et al of record in Paper #5, Page 5 Paragraph 5 have been withdrawn due to Applicant's amendments in Paper #7.

**REPEATED REJECTIONS**

3. The 35 U.S.C. 102 rejections of claims 31-35 as anticipated by Fydeler have been repeated for the reasons previously of record in Paper #5, Page 4 Paragraph 4 and the reasons given below in the answers to applicant's arguments.

**NEW REJECTIONS**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 31-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 31 and 35, the limitation "in an amount sufficient to induce a salting-out effect" renders the claims vague and indefinite because it is not understood what amount is sufficient, and therefore one of ordinary skill in the art would not be able to understand what amount of salting agent is claimed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 31-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Michal et al (USPN 6,287,285 B1).

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Michal et al teach a medical device (see abstract) comprising a substrate constructed and arranged for insertion into a patient (see abstract) and a plurality of monomer molecules directly graft polymerized onto the surface of the substrate from a medium having reversed phase properties from the substrate, in terms of hydrophilicity (see abstract). In this case a hydrophilic compound is directly grafted onto a hydrophobic substrate (col.5, 1.9-17). The medium comprises a salting agent such as potassium bromide or sodium chloride, which are potassium and sodium salts respectively, which are considered salting agents as defined in the applicant's specification on Page 14 lines 4-8. The substrate is a guide wire or catheter such as a PTCA catheter (col.5, 1.53-56). The hydrophilic coating is added to all or part of the medical device including the interior and exterior surfaces (col.14, 1.1-15). The hydrophilic coating is also applied with an initiator or grafting component capable of initiating a graft polymerization reaction on the substrate, to generate reactive radical sites on the surface of the substrate (see abstract). Note the salting agent is added in an amount, but it is not clear what amount is sufficient to induce a salting-out effect as shown above in the 112 rejections.

*ANSWERS TO APPLICANT'S ARGUMENTS*

6. Applicant's arguments regarding the 35 U.S.C. 112 rejections have been considered but are moot since the rejections have been withdrawn.

7. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 31-35 as anticipated by Fydeler et al have been considered but they are not persuasive.

In response to applicant's argument that Fydeler et al fail to teach the newly added limitation that the medium comprises a salting agent in an amount sufficient to induce a salting-out effect, Fydeler teaches that the medium, preferably water, includes between 1 and 20 grams per liter of solution of a suitable homopolymerization inhibitor such as cupric chloride, cupric nitrate, ferrous sulfate or potassium ferricyanide (col.3, 1.4-10). The homopolymerization inhibitors listed above are salting agents, and are added in an amount. Further, the applicant's specification defines potassium salts as salting agents and potassium ferricyanide is a potassium salt. The use of the salting agent or the reason why the salting agent is added, such as to induce a salting-out effect receives little patentable weight because determining a latent property of a known composition does not make the known composition novel or

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obvious. Note the salting agent is added in an amount, but it is not clear what amount is sufficient to induce a salting-out effect as shown above in the 112 rejections.

8. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 31-35 as anticipated by Anders et al have been considered but are moot since the rejections have been withdrawn.

#### **Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goldberg et al (USPN 5,290,548); Goldberg (USPN 5,804,263); Zhang et al (USPN 5,800,412).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action

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is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. . In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P Bruenjes whose telephone number is 703-305-3440. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher P Bruenjes  
Examiner  
Art Unit 1772  
CPB  
December 16, 2003

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772 12/23/03